

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA, )  
                               )  
Plaintiff,                 )  
                               ) Case No. 05-10153-GAO  
-vs-                         )  
JIANGYU ZHU                 )  
(aka JIANG YU ZHU)         )  
KAYOKO KIMBARA             )  
Defendants.                 )

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**INDICTMENT**

Introduction

The Grand Jury Charges that:

1. At all times material to this Indictment Harvard University was an academic institution located in Cambridge, Massachusetts. Harvard University Medical School's Department of Cell Biology ("Harvard") engaged in various research projects, in particular, projects to develop new immunosuppressive drugs to control organ rejection, and also to study the genes that regulate calcineurin, an important signaling enzyme in the heart, brain and immune systems. This research was conducted by post-doctoral fellows under the direction of Dr. Frank McKeon ("McKeon"), Professor of Cell Biology at Harvard. The researchers used information, technology and chemical reagents previously developed by Dr. McKeon at Harvard to screen drugs and genes in an effort to determine those drugs which might control organ rejection, and those genes which might control calcineurin.

2. At all times material to this Indictment, JIANGYU ZHU (also known as "JIANG YU ZHU," hereinafter referred to as "defendant ZHU") was a citizen of the People's Republic of China, and

a permanent resident alien of the United States. Defendant ZHU received a Bachelor of Science degree from Beijing University in 1991, and a doctoral degree in biochemistry from Temple University in Philadelphia, Pennsylvania in 1997. From on or about February 27, 1997 until terminated on or about December 31, 1999, defendant ZHU was employed as a research fellow in Dr. McKeon's laboratory at Harvard. As standard practice, defendant ZHU signed a Participation Agreement upon coming to Harvard in which he agreed that all rights to any invention or discovery conceived or first reduced to practice as part of or related to his University activities are assigned to Harvard, and that his obligations would continue after termination of his Harvard employment.

3. At all times material to this Indictment, KAYOKO KIMBARA was a citizen of Japan, and a permanent resident alien of the United States. Defendant KIMBARA received a doctoral degree from Tokyo University in 1998. From on or about October 1, 1998 until terminated on or about December 31, 1999, defendant KIMBARA was employed as a research fellow in Dr. McKeon's laboratory at Harvard. As standard practice, defendant KIMBARA signed a Participation Agreement upon coming to Harvard in which she agreed that all rights to any invention or discovery conceived or first reduced to practice as part of or related to her University activities are assigned to Harvard, and that her obligations would continue after termination of her Harvard employment.

4. Beginning in approximately the fall of 1999, defendant ZHU entered into discussions and negotiations with officials of the University of Texas Health Science Center, Institute of Biotechnology, Department of Molecular Medicine ("UTHSC") concerning the availability of a research position at that facility. On or about December 13, 1999, defendant ZHU received an offer of employment from UTHSC. Defendant ZHU concealed from and failed to disclose to officials at Harvard that he had accepted a new position at UTHSC to begin in January 2000.

5. On or about December 22, 1999, defendant ZHU composed and sent e-mail messages to a professor with the University of Texas Health Science Center, Institute of Biotechnology, Department of Molecular Medicine, to arrange for the receipt and proper storage of reagents that he intended to ship by private interstate carrier to that institution.

6. From on or about December 27, 1999 to on or about January 1, 2000, without authorization from Harvard, defendants ZHU and KIMBARA removed at least approximately twenty (20) cartons, including some styrofoam containers commonly used to ship perishable biological materials, from the building in which Dr. McKeon's laboratory is located at Harvard.

7. Between on or about December 27, 1999 and on or about January 1, 2000, without authorization from Harvard, defendants ZHU and KIMBARA shipped at least approximately twenty (20) cartons from Harvard to the University of Texas Health Science Center, Institute of Biotechnology, Department of Molecular Medicine, located in San Antonio, Texas.

8. On or about January 11, 2000, defendants ZHU and KIMBARA falsely represented to Harvard officials that they had turned over all the primary data for the research they conducted and they denied that they took anything from the laboratory other than personal belongings.

9. On or about June 2, 2000, representatives from Harvard traveled to UTHSC where they found and retrieved materials that defendants ZHU and KIMBARA had taken from Harvard to UTHSC without authorization, including reagents, anti-bodies and other materials and equipment developed and/or used by Harvard Medical School in an effort to develop new immunosuppressive drugs to control organ rejection, and also to study the genes that regulate calcineurin.

10. In addition to taking samples of their own work from Harvard, defendants ZHU and KIMBARA also, without authorization concealed primary data from Harvard, and failed to leave

samples of the DNA and cell line reagents they had removed from the laboratory at Harvard. Defendants ZHU and KIMBARA, also without authorization, removed items from the Harvard laboratory which pertained to research being done by others in the lab and thereby significantly impaired the work of other scientists.

Count One

(Interstate Transportation of Stolen Property - 18 U.S.C. § 2314)

11. Paragraphs 1 through 10 are realleged and incorporated by reference as though fully set forth herein.

12. From on or about December 22, 1999 to on or about January 1, 2000, in the District of Massachusetts and elsewhere, the defendants,

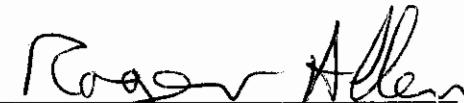
JIANGYU ZHU and

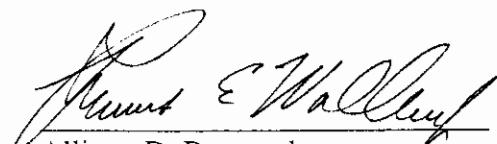
KAYOKO KIMBARA,

did transport, transmit and transfer in interstate and foreign commerce, goods of a value exceeding \$5,000, knowing that such goods were stolen, converted and taken by fraudulent means from Harvard Medical School, specifically reagents, anti-bodies and other materials and equipment developed and/or used by Harvard Medical School in an effort to develop new immunosuppressive drugs to control organ rejection, and also to study the genes that regulate calcineurin, an important signaling enzyme in the heart, brain and immune systems, as well as related genetic research materials.

All in violation of Title 18, United States Code, Sections 2314 and 2.

A TRUE BILL

  
Roger Allen  
FOREPERSON OF THE GRAND JURY



Allison D. Burroughs  
Assistant U.S. Attorney

Robert E. Wallace, Jr.  
Senior Trial Attorney  
Criminal Division, Counterespionage Section

DISTRICT OF MASSACHUSETTS; June 16, 2005.

Returned into the District Court by the Grand Jurors and filed.

  
Mary S. Smith  
DEPUTY CLERK  
6/16/05  
1:45 (MS)

Criminal Case Cover SheetU.S. District Court - District of Massachusetts

Place of Offense: Massachusetts Category No. II Investigating Agency FBI

City Cambridge

**Related Case Information:**

County Middlesex

Superseding Ind./ Inf. \_\_\_\_\_ Case No. \_\_\_\_\_

Same Defendant \_\_\_\_\_ New Defendant \_\_\_\_\_

Magistrate Judge Case Number 02-M-0421-RBC

Search Warrant Case Number \_\_\_\_\_

R 20/R 40 from District of \_\_\_\_\_

**Defendant Information:**

Defendant Name Jiangyu Zhu Juvenile  Yes  No

Alias Name Jiang Yu Zhu

Address 3440 Lebon Drive, San Diego, CA

Birth date (Year only): \_\_\_\_\_ SSN (last 4 #): \_\_\_\_\_ Sex M Race: Asian Nationality: Chinese

Defense Counsel if known: Peter Krupp Address: Lurie & Krupp, LLP  
One McKinley Sq. Boston, MA 02109

Bar Number: \_\_\_\_\_

**U.S. Attorney Information:**

AUSA Allison D. Burroughs Bar Number if applicable \_\_\_\_\_

Interpreter:  Yes  No List language and/or dialect: \_\_\_\_\_

Matter to be SEALED:  Yes  No

Warrant Requested

Regular Process

In Custody

**Location Status:**

Arrest Date: \_\_\_\_\_

Already in Federal Custody as \_\_\_\_\_ in \_\_\_\_\_.

Already in State Custody \_\_\_\_\_  Serving Sentence  Awaiting Trial

On Pretrial Release: Ordered by Magistrate Collings on 7/17/02

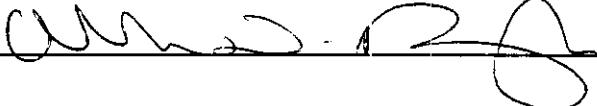
Charging Document:  Complaint  Information  Indictment

Total # of Counts:  Petty \_\_\_\_\_  Misdemeanor \_\_\_\_\_  Felony \_\_\_\_\_

Continue on Page 2 for Entry of U.S.C. Citations

I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: 6/16/05

Signature of AUSA: 

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

Name of Defendant Jiangyu Zhu (a/k/a Jiang Yu Zhu) \_\_\_\_\_

**U.S.C. Citations**

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 U.S.C. §2314</u>	<u>Interstate Transportation of Stolen Property</u>	<u>1</u>
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

**ADDITIONAL INFORMATION:**

**Criminal Case Cover Sheet****U.S. District Court - District of Massachusetts**

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City Cambridge

**Related Case Information:**

County Middlesex

Superseding Ind./ Inf. \_\_\_\_\_ Case No. \_\_\_\_\_  
 Same Defendant \_\_\_\_\_ New Defendant \_\_\_\_\_  
 Magistrate Judge Case Number 02-M-0421-RJBC  
 Search Warrant Case Number \_\_\_\_\_  
 R 20/R 40 from District of \_\_\_\_\_

**Defendant Information:**

Defendant Name Kayoko Kimbara Juvenile  Yes  No

Alias Name \_\_\_\_\_

Address 3440 Lebon Drive, San Diego, CA

Birth date (Year only): \_\_\_\_\_ SSN (last 4 #): \_\_\_\_\_ Sex F Race: Asian Nationality: Japanese

Defense Counsel if known: Tom Dwyer Address: Dwyer & Collora, LLP  
600 Atlantic Ave, Boston, MA 02210

Bar Number: \_\_\_\_\_

**U.S. Attorney Information:**

AUSA Allison D. Burroughs Bar Number if applicable \_\_\_\_\_

Interpreter:  Yes  No List language and/or dialect: \_\_\_\_\_

Matter to be SEALED:  Yes  No

Warrant Requested  Regular Process  In Custody

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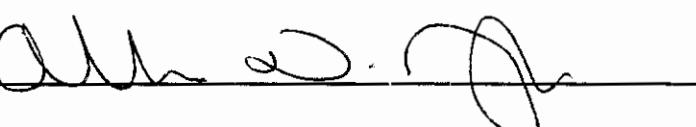
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Signature of AUSA: 

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

Name of Defendant Kayoko Kimbara**U.S.C. Citations**

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Set 1 <u>18 U.S.C. §2314</u>	<u>Interstate Transportation of Stolen Property</u>	<u>1</u>
Set 2 _____	_____	_____
Set 3 _____	_____	_____
Set 4 _____	_____	_____
Set 5 _____	_____	_____
Set 6 _____	_____	_____
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Set 11 _____	_____	_____
Set 12 _____	_____	_____
Set 13 _____	_____	_____
Set 14 _____	_____	_____
Set 15 _____	_____	_____

**ADDITIONAL INFORMATION:**